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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,970	10/14/2003	Kevin L. Parsons	90054	9957

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EXAMINER

JACKSON, ANDRE L

ART UNIT PAPER NUMBER

3677

DATE MAILED: 11/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/684,970

Applicant(s)

PARSONS, KEVIN L.

Examiner

Andre' L. Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

*DETAILED ACTION*

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 6, 2005 has been entered.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,728,003 to Hustad in view of USPN 5,188,362 to Ashihara. Hustad discloses an end piece device (10) useable with an expandable baton (11) having an elongated cylindrical handle defining a longitudinal axis of the baton and adapted to receive at least one internal telescoping section extendable from a distal end of the handle, the end piece comprising;

a unitary body (14) having an enlarged knob (12) defining a proximal end of the end piece; the body having an opposite threaded cylindrical segment distal end (24) having a diameter similar to a diameter of the baton and configured to releasably attach the end piece generally axially to the baton handle at a threaded proximal end (18) of the baton handle,

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and the body having an annular tapered neck portion (16) disposed between and contiguous to the knob and the cylindrical segment distal end, the neck portion being sized to receive a user's finger in wrapped relation about the neck portion so that the finger is captured between the knob and the distal end, the end piece having a longitudinal length such that at least a finger of the user can grip a proximal end portion of the baton handle whereby the baton can be held firmly adjacent the proximal end of the baton handle with the end piece creating an increased leveraged moment arm. However, Hustad does not specifically disclose that the tapered neck portion is a circumferential groove of concave profile nor does the cylindrical segment distal end has a smaller external diameter than the knob of the end piece as claimed. Ashihara teaches an end cap for use with a leverage baton handle (2). The end cap comprising a unitary body (8) defining a longitudinal axis and having an enlarged knob end (8e); the body having an opposite threaded cylindrical segment distal end (8b, 15) of a smaller external diameter than the knob end for attaching the end cap to the leverage baton handle at a proximal end (9a) of the baton handle in substantially axial alignment therewith, and the body further having a reduced diameter circumferential groove of concave profile (8c) intermediate and contiguous to the knob and the distal end, the neck portion being sized to receive a user's finger in wrapped relation about the neck portion so that the finger is captured between the knob and the distal end such that the baton handle can be held firmly adjacent the proximal end of the handle with at steadfast and leveraged grip. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the end piece device of Hustad to incorporate the specific shape of the end cap as taught by Ashihara to provide an improved ergonomic end piece being sized to receive a user's finger in wrapped relation about a neck portion so that the finger is captured

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between a knob and a distal end such that a baton can be held firmly adjacent a proximal end of the baton with at steadfast and leveraged grip.

As to claims 2-4 and 9-11, the knob end is hemispheric in shape defining a dome shape with an opposite flat end surface defining the reduced diameter neck portion depending therefrom.

As to claims 5-7, 12-14 and 16, the opposite attachment end from the body is a generally cylindrical segment surface (32) having an internal threaded section (22) for cooperative engagement with an externally threaded proximal end (26) of the baton distal end. The knob end of the end cap in an alternate embodiment defines probe surfaces at (60) radially extending out from the knob of the end piece as seen in Fig. 4.

### ***Response to Applicant's Arguments***

In response to applicant's arguments and amendment to the claims filed in the Amendment of October 6, 2005, #5,728,003 to Hustad has been applied and used in combination with # 5,188,362 to Ashihara to present an obvious type rejection. Accordingly, claims 1-19 are found to be unpatentable over Hustad in view of Ashihara as an obvious change in shape type rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In particular, Jones and Badura disclose baton devices defining end cap sections, which may be used in combination or singly to meet the limitations of applicant's base claim(s).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (571) 272-7067. The examiner can normally be reached on Mon. - Fri. (9:30 am - 6 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Patent Examiner  
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ROBERT J. SANDY  
PRIMARY EXAMINER